

## **ORDINANCE NO. 2013-16**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADDING CHAPTER 10.68 TO THE NEWPORT BEACH MUNICIPAL CODE PERTAINING TO TARGETED RESIDENTIAL PICKETING**

**WHEREAS**, the City of Newport Beach ("City") is a charter city, governed by a charter adopted by the citizens of the City; and

**WHEREAS**, Article XI, Section 5 of the Constitution of the State of California authorizes charter cities to enact ordinances with respect to their municipal affairs; and

**WHEREAS**, the City Council finds and declares that the preservation and protection of the right to privacy in a residential dwelling unit and the enjoyment of tranquility, well-being and sense of security in a residential dwelling unit are in the public interest and are uniquely and critically important to the public health, safety and welfare; and

**WHEREAS**, the City Council finds and declares that picketing targeted at a particular residential dwelling unit is harmful to the public health, safety and welfare, and must be limited; and

**WHEREAS**, the City Council finds and declares that picketing at or near the borders of a private residence and directed at the inhabitants of the residential dwelling unit is a disfavored activity that is not entitled to a high level of First Amendment protection, according to decisions by State and Federal courts; and

**WHEREAS**, the City Council finds and declares that picketing directed at a particular residential dwelling unit and intended to harass and intimidate the occupants, is inherently and unreasonably offensive to and intrusive upon the right to privacy in one's home; and

**WHEREAS**, the City Council finds and declares that a three hundred foot (300') "buffer zone" creates a minimum zone of protection for residents from unwanted harassment and intimidation, but does not prevent picketers from disseminating their message to the general public or to local residents from a lawful distance; and

**WHEREAS**, the City Council finds and declares that it is the intent of this ordinance to protect what the courts have called a "captive audience" inside a targeted residential dwelling unit without stifling any speech that is protected by the First Amendment; and

**WHEREAS**, the City Council finds and declares that the enactment of this ordinance is intended to establish time, place and manner restrictions that reconcile and protect the First Amendment rights of picketers to peacefully communicate and express their ideas and opinions with the rights of persons to enjoy the right to privacy in their homes; and

**WHEREAS**, the City Council finds and declares that the enactment of this ordinance is not intended to preclude the right to picket in a residential area generally and in such a manner that does not target or focus upon a particular residential dwelling unit; and

**WHEREAS**, the City Council finds and declares that the prohibitions and buffer zones adopted herein leave open ample alternative avenues for communicating messages and ideas by those who wish to picket or protest in the City.

**NOW, THEREFORE**, the City Council of the City of Newport Beach, California, does ordain as follows:

**Section 1:** Chapter 10.68, Targeted Residential Picketing, is hereby added to the Newport Beach Municipal Code to read as follows:

### **Chapter 10.68 TARGETED RESIDENTIAL PICKETING**

Sections:

**10.68.010** Legislative Findings and Statement of Purpose.

**10.68.020** Definitions.

**10.68.030** Targeted Residential Picketing Prohibited.

**10.68.040** Public Nuisance.

#### **10.68.010 Legislative Findings and Statement of Purpose**

- A. The City Council finds that the preservation and protection of the right to privacy in a residential dwelling unit and the enjoyment of tranquility, well-being and sense of security in a residential dwelling unit are in the public interest and are uniquely and critically important to the public health, safety and welfare.
- B. The City Council finds that picketing targeted at a particular residential dwelling unit is harmful to the public health, safety and welfare, and must be limited.

- C. The City Council finds that picketing at or near the borders of a private residence and directed at the inhabitants of the residential dwelling unit is a disfavored activity that is not entitled to a high level of First Amendment protection, according to decisions by State and Federal courts.
- D. The City Council finds that picketing that is directed at a particular residential dwelling unit and is intended to harass and intimidate the occupants, is inherently and unreasonably offensive to and intrusive upon the right to privacy in one's home.
- E. The City Council finds that a three hundred-foot (300') "buffer zone" creates a minimum zone of protection for residents from unwanted harassment and intimidation, but does not prevent picketers from disseminating their message to the general public or to local residents, from a lawful distance.
- F. The City Council finds that it is the intent of this Chapter to protect what the courts have called a "captive audience" inside a targeted residential dwelling unit without stifling any speech that is protected by the First Amendment.
- G. The City Council finds that this Chapter is intended to establish time, place and manner restrictions that reconcile and protect the First Amendment rights of picketers to peacefully communicate and express their ideas and opinions with the rights of persons to enjoy the right to privacy in their homes.
- H. The City Council finds that this Chapter is not intended to preclude the right to picket in a residential area generally and in such a manner that does not target or focus upon a particular residential dwelling unit.
- I. The City Council finds that the prohibitions and buffer zones adopted herein leave open ample alternative avenues for communicating messages and ideas by those who wish to picket or protest in the City.

#### **10.68.020 Definitions**

For the purposes of this Chapter, the following definitions shall apply:

- A. "Picketing" means the presence of a person or a group of people for a demonstration or protest.

- B. "Dwelling Unit" shall mean the same as that term is defined in Title 20 of this Code.
- C. "Targeted Picketing" means Picketing that is directed at a particular Dwelling Unit and either proceeds on a definite course or route in front of or around that particular Dwelling Unit or remains within three hundred feet (300') of a particular Dwelling Unit without substantial movement.

#### **10.68.030 Targeted Residential Picketing Prohibited**

No person shall engage in Targeted Picketing activity within three hundred feet (300') of a particular Dwelling Unit. This section does not and shall not be interpreted to prohibit Picketing in a residential area that is not targeted at a particular Dwelling Unit.

#### **10.68.040 Public Nuisance**

Any violation of this Chapter is hereby declared to be a public nuisance.

**Section 2:** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 3:** The City Council finds the adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

**Section 4:** The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to Charter Section 414.

[Continued on next page.]

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 13<sup>th</sup> day of August, 2013, and adopted on the 10<sup>th</sup> day of September, 2013, by the following vote, to-wit:

AYES, COUNCILMEMBERS \_\_\_\_\_

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NOES, COUNCILMEMBERS \_\_\_\_\_

\_\_\_\_\_

ABSENT, COUNCILMEMBERS \_\_\_\_\_

\_\_\_\_\_

MAYOR \_\_\_\_\_

Keith D. Curry

**ATTEST:**

\_\_\_\_\_  
LEILANI I. BROWN, CITY CLERK

**APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE**

By: \_\_\_\_\_  
AARON C. HARP, CITY ATTORNEY